
A BILL FOR AN ACT

RELATING TO FAMILY COURT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 580-10, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) When a complaint for annulment, divorce, or
4 separation[~~7~~] is filed in this State, [~~the court,~~] on an
5 application by either party, supported by affidavit or a
6 statement made under penalty of perjury, the court, without a
7 hearing, [~~may enjoin~~] shall:

8 (1) Order each of the parties to that action to timely
9 provide to the other party full financial and property
10 disclosure on forms provided by the court; and

11 (2) Order and restrain each of the parties to that action
12 from transferring, encumbering, wasting, or otherwise
13 disposing of any of their property, whether real,
14 personal, or mixed, over and above current income,
15 except as necessary for the ordinary course of a
16 business or for usual current living expenses, without
17 the consent and concurrence of the other party to such
18 action for divorce, or further specific order of the



1 court. Where [~~such~~] restraining orders are issued
2 against the other party to the action, [~~such person~~]
3 the non-filing party shall be served promptly with the
4 financial restraining order and shall be entitled to a
5 prompt hearing to show cause why [~~such~~] the order
6 should not be enforced."

7 SECTION 2. Section 580-47, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) Upon granting a divorce, or thereafter if, in
11 addition to the powers granted in subsections (c) and (d),
12 jurisdiction of those matters is reserved under the decree by
13 agreement of both parties or by order of court after finding
14 that good cause exists, the court may make any further orders as
15 shall appear just and equitable:

16 (1) [~~compelling~~] Compelling the parties or either of them
17 to provide for the support, maintenance, and education
18 of the children of the parties;

19 (2) [~~compelling~~] Compelling either party to provide for
20 the support and maintenance of the other party;



1 (3) [~~finally~~] Finally dividing and distributing the estate
2 of the parties, real, personal, or mixed, whether
3 community, joint, or separate; and

4 (4) [~~allocating,~~] Allocating, as between the parties, the
5 responsibility for the payment of the debts of the
6 parties whether community, joint, or separate, and the
7 attorney's fees, costs, and expenses incurred by each
8 party by reason of the divorce.

9 In making these further orders, the court shall take into
10 consideration: [~~the~~]

11 (1) The respective merits of the parties[~~, the~~];

12 (2) The relative abilities of the parties[~~, the~~];

13 (3) The condition in which each party will be left by the
14 divorce, the burdens imposed upon either party for the
15 benefit of the children of the parties[~~,~~];

16 (4) The unauthorized dissipation, if any, of the marital
17 estate by either party; and [~~all~~]

18 (5) All other circumstances of the case.

19 In establishing the amounts of child support, the court
20 shall use the guidelines established under section 576D-7.

21 Provision may be made for the support, maintenance, and

22 education of an adult or minor child and for the support,



1 maintenance, and education of an incompetent adult child whether
2 or not the petition is made before or after the child has
3 attained the age of majority. In those cases where child
4 support payments are to continue due to the adult child's
5 pursuance of education, the agency, three months prior to the
6 adult child's nineteenth birthday, shall send notice by regular
7 mail to the adult child and the custodial parent that
8 prospective child support will be suspended unless proof is
9 provided by the custodial parent or adult child to the child
10 support enforcement agency, prior to the child's nineteenth
11 birthday, that the child is presently enrolled as a full-time
12 student in school or has been accepted into and plans to attend
13 as a full-time student for the next semester a post-high school
14 university, college, or vocational school. If the custodial
15 parent or adult child fails to do so, prospective child support
16 payments may be automatically suspended by the child support
17 enforcement agency, hearings officer, or court upon the child
18 reaching the age of nineteen years. In addition, if applicable,
19 the agency, hearings officer, or court may issue an order
20 terminating existing assignments against the responsible
21 parent's income and income assignment orders.



1 In addition to any other relevant factors considered, the
2 court, in ordering spousal support and maintenance, shall
3 consider the following factors:

- 4 (1) Financial resources of the parties;
- 5 (2) Ability of the party seeking support and maintenance
6 to meet his or her needs independently;
- 7 (3) Duration of the marriage;
- 8 (4) Standard of living established during the marriage;
- 9 (5) Age of the parties;
- 10 (6) Physical and emotional condition of the parties;
- 11 (7) Usual occupation of the parties during the marriage;
- 12 (8) Vocational skills and employability of the party
13 seeking support and maintenance;
- 14 (9) Needs of the parties;
- 15 (10) Custodial and child support responsibilities;
- 16 (11) Ability of the party from whom support and maintenance
17 is sought to meet his or her own needs while meeting
18 the needs of the party seeking support and
19 maintenance;
- 20 (12) Other factors which measure the financial condition in
21 which the parties will be left as the result of the



1 action under which the determination of maintenance is
2 made; and

3 (13) Probable duration of the need of the party seeking
4 support and maintenance.

5 The court may order support and maintenance to a party for
6 an indefinite period or until further order of the court;
7 provided that in the event the court determines that support and
8 maintenance shall be ordered for a specific duration wholly or
9 partly based on competent evidence as to the amount of time
10 which will be required for the party seeking support and
11 maintenance to secure adequate training, education, skills, or
12 other qualifications necessary to qualify for appropriate
13 employment, whether intended to qualify the party for a new
14 occupation, update or expand existing qualification, or
15 otherwise enable or enhance the employability of the party, the
16 court shall order support and maintenance for a period
17 sufficient to allow completion of the training, education,
18 skills, or other activity, and shall allow, in addition,
19 sufficient time for the party to secure appropriate employment."

20 2. By amending subsection (f) to read:

21 "(f) Attorney's fees and costs. The court hearing any
22 motion for orders either revising an order for the custody,



1 support, maintenance, and education of the children of the
2 parties, or an order for the support and maintenance of one
3 party by the other, or a motion for an order to enforce any such
4 order or any order made under subsection (a) of this section,
5 may make such orders requiring either party to pay or contribute
6 to the payment of the attorney's fees, costs, and expenses of
7 the other party relating to such motion and hearing as shall
8 appear just and equitable after consideration of the respective
9 merits of the parties, the relative abilities of the parties,
10 the economic condition of each party at the time of the hearing,
11 the burdens imposed upon either party for the benefit of the
12 children of the parties, the unauthorized dissipation, if any,
13 of the marital estate by either party, and all other
14 circumstances of the case."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Family Court; Divorce

Description:

Authorizes family court to issue financial restraining orders, and consider the unauthorized dissipation of marital assets in ordering payment of attorney fees and costs. Effective date July 1, 2050. (HB909 HD2)

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